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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,842	08/31/2000	Eliana Peres	8673-110(8061-518 SJP/rs)	4412
7590	05/12/2004			EXAMINER ENG, DAVID Y
Frank Chau Esq F Chau & Associates LLP 1900 Hempstead Turnpike Suite 501 East Meadow, NY 11554			ART UNIT 2155	PAPER NUMBER
DATE MAILED: 05/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

X1

Office Action Summary	Application No.	Applicant(s)
	09/651,842	PERES, ELIANA
	Examiner	Art Unit
	DAVID Y. ENG	2155

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 and 11-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 August 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

The information disclosure statement filed 8/31/2000 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. The search report cited in the IDS is not prior art. The public does not know what is in the search report and therefore does not know what has been considered by the Examiner. It has been placed in the application file, but the information referred to in the search report has not been considered. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim 10 has been cancelled. The active claims are 1-9 and 11-17.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is dependent on cancelled claim 10.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fijolek (USP 6,223,222).

With respect to claims 1, 8 and 12, see at least the abstract, Figures 18-19 and the corresponding description in lines 53 et seq. of column 29. Fijolek teaches a system

(330, Figure 8) for management and control of multimedia (see "multimedia" in BACKGROUND OF THE INVENTION) communications resources comprising:

- (a) communications pathway (PSTN and CABLE NET);
- (b) an originating multimedia computing device (26, headend of Cable Network) coupled to said communications pathway with requested quality of service requirements (QoS 332 in Figure 18, see QoS request in lines 53 et seq. of column 29, see also 338 in Figure 19);
- (c) one or more destination multimedia computing devices (CPE, 20 and 18 in Figure 18) coupled to said communications pathway;
- (d) one or more quality of service management components (QoS 232 in Fig. 18) coupled to said communications pathway; said one or more quality of service management components determines communications pathway availability (see 340 in Fig. 19) for multimedia communications at said requested quality of service requirements in response to a request from said originating multimedia computing device to establish communications with said destination multimedia computing devices, and wherein said one or more quality of service management components send a positive or negative (see 340, 350 and 348 in Fig. 19) response to said originating multimedia computing device, said response corresponding to said request.

Fijolek does not make clear that a positive response is sent to an originating multimedia computing device. However, Fijolek teaches that bandwidth is assigned to an originating if they are available (348 in Fig. 19). One of ordinary skill in the art should

readily recognize that the assigning of bandwidth can be considered as a positive response.

As to claims 2, 3, see "database 334" in line 66 of column 29.

As to claim 4, see QoS server and 332 in line 57 of column 29.

As to claims 5 and, see QoS software in line 55 of column 42.

As to claim 7, see 340 in Figure 19.

As to claim 9, see 348 and " -- to establish a connection --" in 338 of Figure 19.

Scope of claim 11 is not clear because it is dependent on cancelled claim 10.

As to claims 13-14, see Figures 19-22.

As to claim 15-17, see 336 and 340 in figure 19. See also lines 53 et seq. of column 29.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Applicants amended "desired quality" to "requested quality".

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



DAVID Y. ENG
PRIMARY EXAMINER